

**THE BILL BLACKWOOD
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Implementation of a Police Reserve Program
in the City of El Paso, Texas

A Policy Research Project

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ABSTRACT

With budget constraints and being asked to address more issues and problems with less funding and manpower, police departments throughout Texas and the United States are evaluating the possible use of police reserve or volunteers to supplement regular sworn officers.

The purpose of this study is to balance the cost and risk of implementing a Police Reserve Program by the following three step analysis:

- (1) interviewing officers throughout the state;
- (2) evaluating the liability issues that arise with the creation of a police reserve program; and
- (3) evaluating the concerns the El Paso Police Officers Association have regarding the implementation of a police reserve program.

Despite the many obstacles which must be overcome before a reservist program could be successfully completed, it is believed that the benefits of the program will far outweigh the costs and concerns. A properly functioning evaluation process is critical to the success of the program.

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Introduction

The purpose of this research paper is to analyze the possibility of implementing a Police Reserve Program in the City of El Paso, Texas. The city of El Paso is experiencing budget constraints which have affected the El Paso Police Department. At the same time as these financial constraints have been implemented, the City continues to grow dramatically. The budget constraints have resulted in fewer police officers, and this means that officers are now working solo on both evening and graveyard shifts. It is the belief of this author that a qualified Police Reserve Program would result in two benefits to the El Paso Police Department:

1. enhance officer safety
2. improve the overall effectiveness and efficiency of the El Paso Police Department

To determine whether these benefits would result and whether such a program could be successfully implemented, three issues need to be examined:

1. the initial cost to start the program including recruitment, T.C.L.E.O.S.E training certification, and uniforms
2. due to liability concerns, a written policy or procedure must be implemented to address the importance of the volunteer reservists, their rights and the scope of their duties
3. whether the interaction between the reservists and the officers will be such that the reservists will be accepted by the regular officers

The intended audience of this research is the Chief of the El Paso Police Department, the Mayor and City Council members and the members of the El Paso Police Officers Association.

The sources of information for this research are library books, documents, interviews with present and former reservists, interviews with other involved professionals, professional and popular police publications, and case law involving vicarious liability.

The intended outcome of the project is to establish that the implementation of a police

reserve program will increase officer safety, will result in a pool from which to recruit future full time police officers, and will show that the empowerment of citizens through participation in community protection is important to a growing society.

Historical, legal and Theoretical Context

Law enforcement agencies throughout the United States are being asked to provide more services with less financial resources and less manpower. Because of these restrictions, it has become imperative that the limited resources be used in a manner which maximizes the services which can be provided to the public.

While volunteers are being used in several different successful programs of the El Paso Police Department, these volunteers are not being used as police reservists. For example, the Crisis Response Team assists officers in notification of deaths, works with victims of crimes to inform them of the resources available to deal with the trauma that they have suffered, and deals with serious emotional issues that always arise in the context of crime, serious injury and death. (Shannon) The services of these volunteers have allowed the officers to leave the scene of a crime quicker, knowing that the volunteers are providing a service for which they are uniquely trained, and allowing the officers to get back on the street and deal with problems that require the specialized training unique to the police officers. Volunteer programs are a valuable asset to the department and have been well accepted by the officers and the community.

History has established that the successful enforcement of law is dependent on public involvement. The principle of public involvement has been recognized throughout the world and has even been embodied as part of the British Police Policies:

To maintain at all times a relationship with the public that gives reality to the historic tradition that the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the interests of community welfare and existence. (Reith 64)

For the implementation of a police reserve program to be successful, the planning process must be thorough and the scope of responsibility must be clearly communicated to all involved persons, including members of the El Paso Police Officers Association.

One of the first concerns which must be addressed is the legal implication of a police reserve program. Since under 42 U.S.C. § 1983, municipal officials can be held liable for acts which result in the violation of an individual's civil rights, the possibility of litigation must always be factored into the implementation of any new program. In Monnell v. New York City Department of Social Services, 436 U.S. 65 (1978), the U.S. Supreme Court abolished sovereign immunity for municipal officials if there was a constitutional violation by an employee who was performing his responsibilities under the color of official policy and custom.

While this potential liability for violation of civil rights cannot be avoided when reservists are hired, there are a number of steps which can be taken to lessen the possibility of situations arising in which a constitutional violation occurs. Appropriate selection, training and supervision of reservists can insure that the chances of a lawsuit are minimized.

Recruitment and selection should be directed towards people whose main goal is to improve the quality of life in their community. (EPPD) The ideal reserve candidate should be firmly entrenched in another profession. He or she should also be a local

resident or employee who wants literally to make a contribution to his or her community. (Bushey 18)

T.C.L.E.O.S.E. establishes the required training for all law enforcement officers in Texas including reserve officers. The training given to the reservists must be sufficient, both in content and quality, to protect the City of El Paso from liability. In Russo v. City of Cincinnati, 953 F.2d 1036 (6th Cir. 1992), the Sixth Circuit held that a municipality does not automatically shield itself from liability for failure to train police officers simply by offering a course covering the subject. (Wallace and Arnold 27)

The reserve officer would function under the general direction of the Chief of Police and would be subject to the same rules and regulations of sworn regular officers. Direct supervision of the police reservists should be handled by a supervisor who would serve as a liaison between the regular officers and the reservists. The liaison supervisor would be a regular officer who would receive additional training in interpersonal skills and dealing with volunteers. Working under the liaison supervision would be a Field Training Officer. These two individuals would be responsible for insuring that the policy established above which delineates the responsibilities and obligations of the reservists is strictly followed.

The existence of both a written policy and these positions should provide additional protection for the City of El Paso for any claims based on an allegation of lack of supervision. Of course, the existence of a policy and positions becomes meaningless if the policy is not strictly adhered to and if the supervisors neglect to perform the appropriate responsibilities. It will be critical that actual implementation and adherence be strictly monitored since words without action will be no defense should a lawsuit occur. (Shannon)

Review of Literature or Practice

According to the American Association of Retired Persons (AARP), an estimated 600,000 volunteers now work in municipal police and sheriffs' departments, and the number is growing steadily. (Burden 25) While most departments have welcomed the added assistance and experience reserve officers bring, there is not total acceptance of the program. For example, departments which have strong police unions are opposed to the reservist program because they believe that it takes jobs away from working people. Other departments have expressed concerns about potential liability as being another reason not to implement a police reserve program.

In 1983, an AARP study found that approximately twenty-five percent of the volunteers experienced some type of rejection by the sworn officers based on the following reasons: concern about job security, loss of overtime pay, fear for their personal safety while working with volunteers, and perception of a lack of professionalism by the volunteers. However, these concerns usually disappeared once the officers observed the volunteers at work. (AARP)

The police reserve program has been very successful in various other Texas cities. In Longview, the implemented policy shows that the reserve program is used as a pool to select full time officers. (Longview Policy)

The Converse Police Department also uses the reserve program as a pool to hire its officers. Mrs. Kimberly Riffe is one of those officers who started as a volunteer in the police dispatcher office. She believes that she had two strikes against her when she joined the law enforcement ranks as a reserve officer: first, she is a woman; and second, she is an unpaid reservist. While she initially did experience tension and resentment from the sworn regular officers, she was accepted by the officers after

they observed her work habits and output in the field. Mrs. Riffe is now a Lieutenant with the Converse Police Department. (Riffe)

The use of the reserve program as a pool to hire regular officers would not be possible in El Paso because current civil service rules prohibit the El Paso Police Department from offering any incentives or preferential treatment for reservists seeking full time positions with the Department. (Civil Service Rules 10)

An issue of great concern to all law enforcement officers is whether police reservists will be allowed to work off duty jobs, and the majority of departments do not allow their reservists to pursue off duty employment. The Longview Police Department allows police reservists to only work at specific activities such as football games with the money going to a fund and not to the officers. The fund is then used to pay for uniforms and other police wear for the reservists. (Pigeon)

The Tyler Police Department had a strong reserve program in place, but it collapsed after allowing its reserve officers to work off duty. As of February 1996, the Tyler Police Department no longer has a police reserve program. Initially, the reserve officers were concentrating their energy on working off duty jobs and not working their required hours with the Tyler Police Department. This became a double edged sword because the reservists were taking away off duty jobs from the regular officers while at the same time they were not supplementing the regular officers on patrol. (Drew)

Discussion of Relevant Issues

The purpose for the implementation of the reserve program is to supplement the police officers and not to replace them. One of the purposes of a well-trained reserve program would be to serve as another resource from which the El Paso Police Department can draw additional manpower for local emergencies or national disasters. There seems to be little dispute but that with budget constraints and manpower shortages, the implementation of a police reserve program would enhance the overall effectiveness and efficiency of the El Paso Police Department.

The implementation of a reserve program requires "a commitment from the chief, careful screening and selection of volunteers, training and a willingness to fire those who do not perform satisfactorily." (Burden 12) "No clear cut commitment from the top" was one of the limiting factors in the extent of use of volunteers in police departments. (Bocklet 180)

Another concern that has been expressed is that regular officers are reluctant to allow the reserve officer into the police culture which has been described as isolationist, elitist and authoritarian. (Bennett and Hess 245) With the threat of loss of overtime pay removed, it is believed that regular officers will be willing to accept the reservists once the reservists have established their competency and dedication to duty. History with the El Paso Police Department has proven that this acceptance is likely to occur. When the Crisis Response Team was first established, police officers were very reluctant to request the services of this volunteer group because the officers had not worked with the Team before and did not know whether the services which were promised could be professionally delivered. However, after members of the Team proved themselves in actual situations in which they worked

with the officers, the Team has become an accepted and well-used volunteer group which frees the police officers from a scene quicker. (Shannon) There is every reason to believe that the same result will occur once the reservists have had an opportunity to prove themselves.

One of the biggest obstacles in establishing a reserve unit in the El Paso Police Department is the El Paso Municipal Police Officers Association as the Association opposes the implementation of such a program. Officer Mike Brettinger, President of the Association, expressed three areas of concern:

The first, and most important, concern is officer safety. Officer Brettinger believes that putting an officer with a reservist who is less trained would place the officer at a higher risk for injury. Officer Brettinger believes that it is safer to work solo than to work with a reserve officer partner.

Second, the Association believes that professionalism would suffer. Concern was expressed that reserve officers who are trained outside the Department's training academy would be unable to perform their jobs adequately and professionally. They also expressed concern that an older business person would be unable to accept the authority of a younger police officer, creating a hostile working environment for both the reservist and the regular officer. Officer Brettinger perceives that a mature business professional who is used to giving orders would not be able to take orders from a young officer.

Third, because the Association's main goal is to increase manpower in the Department, there is concern that the City of El Paso would not increase the number of sworn personnel or fill vacancies due to the existence of the reserve program. (Brettinger)

The development of a volunteer program is not a panacea to an agency's budgetary problems. Implementing a volunteer program is not cost-free. While it is cost effective and beneficial, there are built in expenses. The recruitment and selection process of the candidates alone will be costly. Expenses will include a complete background check, physical exam, and psychological exam. Once a reservist is accepted, the department would have to pay for equipment, supplies, and

staff time spent in training and supervision. One added expense would be volunteer recognition, i.e., awards and certificates for the reservists since "a system of recognition and awards is necessary to maintain volunteer participation." (Carson 140)

Another legal cost and issue arises as a result of the status of volunteer reservists. Because reservists are not considered employees of the municipality, they are not entitled to many of the benefits that regular officers receive. For example, under §1-8309(h) of the Texas Civil Statutes relating to workers' compensation insurance, law enforcement volunteers are not covered because "one who assumes a service in Texas of his own free will without express or implied promise of remuneration is a volunteer and not an employee for purposes of Workman's Act." However, under the respondent superior doctrine, communities have little option other than to provide insurance coverage for these volunteers. The City of El Paso must, therefore, either cover the cost of liability insurance or bond the reserve officer. While this would entail additional costs, extending workers' benefits to reserve officers would boost morale and demonstrate the El Paso Police Department's concern for the welfare of its reserve force.

On September 29, 1976, President Ford signed into law the Public Safety Officers' Death Benefits Act, 42 U.S.C. § 3796, which provides a death benefit for the families of law enforcement officers and fireman who die in the line of duty. By its terms, this statute provides the same benefits for reservists. This is another example of an added benefit which would be available to reservists.

Conclusion and Recommendations

The possibility of implementing a Police Reserve Program in El Paso, Texas has been evaluated because of the budget constraints being experienced by the police department during a period in which the population of the city has grown dramatically. Due to the necessity of supplementing the regular officers without increasing the police department's budget, the concept of using volunteers to alleviate the pressures facing regular officers is an attractive alternative. However, before it can be determined whether this program would be a viable solution, the different costs and legal issues had to be thoroughly evaluated.

Despite the many obstacles which must be overcome before a reservist program could be successfully completed, it is believed that the benefits of the program will far outweigh the costs and concerns. As with many human services, numbers to measure and document results of a reserve program are difficult to assess. The savings will show up once there is a history to establish the amount of donated manhours and the number of regular officers freed for priority calls. The greatest benefit will be the team relationship that the citizens and the El Paso Police Department will gain by working in partnership to solve crime and the fear of crime. (EPPD) The positive perception that the citizen gains by working hand in hand with the officers of the El Paso Police Department is invaluable to an effectively and efficiently managed police department. These benefits cannot be purchased through any budgetary process. The volunteer or reserve officer is a positive response to the increasing demands of law enforcement today.

Research has established that a properly functioning evaluation process is critical to the continued success of any implemented program. The evaluation process

must consider the effects on service, the response of citizens, and the impact on regular police officers. It is only through such an evaluation process that modification, expansion or termination of a volunteer program can be determined. (Lin 47)

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